UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

WILLIAM SIZER, SAMUEL
McCORMICK, and SHAWNA DAVIS,

        Plaintiff,

NEW ENGLAND FINANCIAL, a service
mark/agent of NEW ENGLAND LIFE
INSURANCE COMPANY, a corporation,
METROPOLITAN LIFE INSURANCE CO.,
a Delaware corporation, MICHELLE
WARNES, an individual, and MARCUS
JOHNSON, an individual,

        Defendants.

Civil No. 10-553-PK
ORDER

HAGGERTY, District Judge:

      Magistrate Judge Papak issued a Findings and Recommendation [24] in this action that

recommended finding that co-defendant Marcus Johnson was fraudulently joined to support an

anticipated motion to remand, and that the Motion to Dismiss [5] advanced by defendants New

1 -- ORDER

England Life Insurance Company, Metropolitan Life Insurance Co., and Michelle Warnes should be granted by dismissing plaintiffs' second claim for relief as to co-defendant Johnson.

No objections to the Findings and Recommendation were filed, and the matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation of the Magistrate Judge. *Campbell v. United States Dist. Ct.*, 501 F.2d 196 (9th Cir. 1974).

No clear error appears on the face of the record. This court adopts the Findings and Recommendation in its entirety.

CONCLUSION

For the foregoing reasons, the court adopts the Findings and Recommendation [24]. This court concludes that co-defendant Marcus Johnson was fraudulently joined to support an anticipated motion to remand from plaintiffs.

The Motion to Dismiss [5] advanced by defendants New England Life Insurance Company, Metropolitan Life Insurance Co., and Michelle Warnes is granted: plaintiffs' second claim for relief as to co-defendant Johnson is dismissed without prejudice.

IT IS SO ORDERED.

DATED this __8__ day of December, 2010.

                                 /s/ Ancer L. Haggerty
                                       Ancer L. Haggerty
                               United States District Judge